

HONORABLE ROBERT J. BRYAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

DENNIS BALSLEY,

Plaintiff,

vs.

BNSF RAILWAY COMPANY, a Delaware
Corporation,

Defendant.

No. C09-5168 RJB

STIPULATION FOR PROTECTIVE
ORDER
AND ORDER

I. STIPULATION

To protect the confidentiality of information contained in discovery materials produced, and other information disclosed, through discovery in this litigation, the parties through their counsel of record stipulate to entry of a Protective Order which provides as follows:

1. BNSF is producing documents to plaintiff pursuant to this Court's Order dated October 4, 2010 on plaintiff's second motion to compel. Such documents are comprised of incident and/or injury reports which contain information relating to BNSF employees who are not parties to this lawsuit. The parties do therefore stipulate that the information contained in

1 those documents (BNSF 001144-1557) shall not be used for purposes outside of litigation with
 2 BNSF.

3 2. BNSF is also producing to plaintiff, in response to plaintiff's written request for
 4 production, a copy of the train movement replay ("replay") identified in the 30(b)(6) deposition
 5 of Scott Unick in this lawsuit. The BNSF replay depicts train movement near Kelso/Longview
 6 on April 8, 2006. The replay is deemed Security Sensitive Information to BNSF due to data
 7 contained therein that unauthorized parties could use to harm BNSF through the process known
 8 as reverse engineering. Such information is considered proprietary information of BNSF.

9 3. It is stipulated by the parties that the above-referenced train movement replay
 10 shall not be used or disclosed by plaintiff to any individuals not involved in this lawsuit and
 11 identified to BNSF prior to disclosure of the replay to them. Subject to the agreement of BNSF
 12 which shall not be unreasonably withheld, such individuals shall be deemed authorized and shall
 13 be bound by the provisions of this Stipulation for Protective Order.

14 4. This Protective Order shall not prevent the replay from being offered
 15 or received as evidence at trial, subject to such confidentiality measures as the Court may then
 16 prescribe, if any. But for such use at trial, the replay shall continue to be treated in accordance
 17 with this Stipulation for Protective Order. However, nothing contained in this Stipulation for
 18 Protective Order affects in any way or to any degree the admissibility of any discovery material
 19 or any information disclosed under the terms of this Stipulation and Order. The admissibility
 20 of such material and information shall be governed by the Rules of Evidence and Procedure in
 21 the same manner as any other potential evidence in the case.

22
 23 Dated this 14th day of October, 2010.

Dated this 14th day of October,
 24 2010.

25
 26 /s/ Paul Bovarnick
 27 Paul Bovarnick, WSBA # 32706
 Attorney for Plaintiff

/s/ Bradley Scarp
 Bradley Scarp, WSBA # 21453
 Kelsey E. Endres, WSBA # 39409

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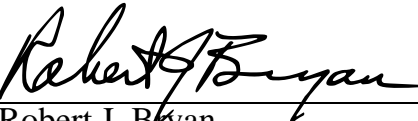
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6 **II. ORDER**

7 IT IS SO ORDERED.

8 Dated this 14th day of October, 2010.

9
10 
11 Robert J. Bryan
12 United States District Judge

13 Presented By:

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